
CHARTER SCHOOL COMMISSION MEETING
Meeting Minutes
October 28, 2004
Boise, Idaho

A regular meeting of the Idaho Charter School Commission was held on October 28, 2004 at Boise State University in Boise, Idaho. Chairman Hammond presided. The following members were present:

Marianne Donnelly
Bill Goesling
Jim Hammond

Kirk Miller
Paul Powell
Ann Souza

Esther Van Wart

EXECUTIVE SESSION

M/S (Hammond/Goesling): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). *A roll call vote was taken. Motion carried unanimously.*

In executive session, the Commission considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The open meeting reconvened at 9:08 a.m., in the Hatch A & B Ballroom at Boise State University.

1. COMMISSION WORK

a) Agenda Approval

Chairman Hammond noted it was suggested to change the order of the last two items on the agenda, move item seven to eight and eight to seven and asked for any other changes or additions to the agenda.

M/S (Goesling/Miller): To approve Agenda as suggested. *The motion carried unanimously.*

b) Rolling Calendar

November 18 or December 2 were suggested dates for next meeting, both of which did not work for the Commission meeting. Next meeting date will be set through correspondence.

c) Minutes Approval

Minutes to be approved at the next meeting.

2. REVIEW OF PENDING RULES GOVERNING THE CHARTER SCHOOL COMMISSION

Deputy Attorney General Campbell discussed rules sent to Commission members to be adopted next year. Chairman Hammond suggested they need more time to review the rules to operate, to learn how they might better function. The rules are temporary and will expire but could ask the legislature to extend temporary rules. The commission concurred.

Commissioner Goesling requested a guidance timeline of paperwork received by Commission members from particular petitioners. Chairman Hammond suggested, with staff guidance that any materials not received two weeks prior to a meeting, not be allowed for that meeting. General discussion followed over guidance on timelines for paperwork and two weeks prior to the next meeting would be used as a guideline. Commissioner Souza requested information be submitted on disk versus paper and the Commission will work with staff on this issue.

Chairman Hammond asked for additional comments and offered clarification on how to handle or receive testimony on the petition. It was agreed that petitioners would come to the table and give their explanation. Following the petitioners, public comment would be allowed pertaining to the petition for five minutes, (clarified three minutes.) No contact was received from anyone other than the petitioners to testify today.

3. IDAHO VIRTUAL ACADEMY (IDVA)

Petitioner David Gencarella, gave an explanation of how they came to be at this place and time from the inception of IDVA noting that IDVA fulfills all seven intents of the legislature in the initiation of Charter Schools. He spoke of their overwhelming support from the legislature, parents, currently serving 2000 families and offered his personal experience in home schooling through this method. He added they are working on concerns of the commission. Other board members and parents offered their experiences and options available with IDVA as positive and successful. A book was donated to the Board of Education. Legal counsel Amy White gave a brief summary of her association with IDVA. David Gencarella summarized the achievements and successes of the school.

The Commission asked questions on the process of choosing directors as well as the frequency and locations of board meetings.

Questions were raised and answered addressing oversight, Commission visits,

constraints, revocation process and hiring and evaluation of teachers. IDVA hired independent auditors for part of the process including how administration and curriculum is doing which will be provided to the Commission within the ten days. Legal council addressed the issues requiring, which had been resolved.

IDVA asked the Commission to recognize the number of parents who came in support of IDVA.

Commissioner Miller asked about the student achievement plan, defining required goals and local school goals success. It was discussed that this is evolving along with their curriculum. Discussion continued regarding changing areas in curriculum, and contact of teachers.

Commissioner Souza asked where employee personnel files are kept and when IDVA is no longer under Butte School District, where they would be kept. IDVA counsel stated they would maintain a physical office at the Butte center.

The Commission was reminded if the Commission chooses to authorize this charter, any issues could be worked through with both sides for resolution.

Commissioner Van Wart commended IDVA on their hard work and fulfillment of all requests by the Commission and questioned the frequency of teacher training, provided by K-12, or on-sight. Vickie Sheffuele, IDVA K-12 employee, provided answers regarding training.

A general discussion was held on the new audit presented and Commissioner Powell stated, in his opinion, that the review was clean with no material findings or concerns.

Commissioner Goesling thanked and commended IDVA on their willingness to work with the Commission and staff on oversight.

M/S (Goesling/Powell): To approve Idaho Virtual Academy as a charter under the Public Charter Commission to continue operations in the 2004-2005 school year with the following additional requirement of Third Party Language:

By granting of a charter, the Public Charter School Commission does not intend that any persons or entities other than the IDVA or its successors and assigns, shall have any rights or remedies arising from this grant, and no third party rights are intended. Specifically, no party contracting with IDVA is intended to have any rights arising from the grant of a charter, and any benefit accruing to any such third party is merely coincidental. *The motion carried unanimously.*

Commissioner Powell requested clarification on the additional requirements and legal counsel explained the relevance of the requirement for this and other charters authorized by the Commission.

Commissioner Miller inquired about the timing of approval requesting legal clarification for filing and the date the Commission assumes oversight of this charter and how it affects the Board. Legal counsel explained the filings, dates and the issuance of a letter by the State Board of Education authorizing IDVA to function as a Commission Charter School. Counsel further explained the Commission oversight becomes effective today according to the statute.

4. COMPASS PUBLIC CHARTER SCHOOL (CPCS)

Petitioners of CPCS presented that their petition was cleaned up and amended and identified items and clarifications made to address the issues in the legal sufficiency such as review, of accreditation, hiring of an administrator, special education, LEA status, transportation of special needs students, and the requirements of the State Department of Education. The signatures of petitioners were verified as qualified electors. Compass addressed the issue and location on the petition that provides for IEPs.

It was discussed as to whether or not CPCS would provide transportation and the associated liability issues and the distinction between travel to and from school versus field trips. Compass was directed to clearly define their petition for their provision for transportation.

Further discussion was held concerning lunch provisions, staff qualifications and records storage requirements. CPCS will correct errors that still exist in the petition. It was also suggested the school receive a health-safety inspection thirty days prior to opening. The statement on resolution of disputes will be deleted in the petition. The service attendance area language change was clarified to the Commission.

Discussion was held regarding adding one grade per year and it was clarified that this petition was intended for approval of K-8 and additional grades to be added would be addressed in the long term plans of the school and a new petition at that time.

The Commission advised the petitioners to refine the balance of their goals and objectives with an understanding of where they want to be, creating a tool for measurement. The petitioners agreed to modify certain statements in the petition. The petitioners stated they have created a financial committee, as well as having an executive, governing and advisory board.

Lottery, admissions policies reviews and approvals, financial assumptions and budget issues, costs and revenue projects were discussed with the petitioners for clarification of certain items including donations, options for modulars, and using caution with a developer to avoid possible misperceived intentions or appearance of conflict of interest.

Teacher training and professional development costs were discussed and the petitioners clarified that teacher training will be done in house, they would also have once a month meetings, and will be using the Development Harbor Institute.

The Compass Charter clarified for the Commission the unique issue in their charter as using the Harbor Method of Instruction, which includes some fine arts, music and a foreign language instruction.

M/S (Powell/Goesling): To approve Compass Public Charter School K-8 as a charter under the Public Charter Commission to begin operations in the 2005-2006 school year with the edits agreed to based on counsel's review and the recommended Third Party Language:

By granting of a charter, the Public Charter School Commission does not intend that any persons or entities other than the Compass Public Charter School or its successors and assigns, shall have any rights or remedies arising from this grant, and no third party rights are intended. Specifically, no party contracting with Compass Public Charter School is intended to have any rights arising from the grant of a charter, and any benefit accruing to any such third party is merely coincidental. *The motion carried unanimously.*

Chairman Hammond called for a twenty-minute lunch recess at 12:38 p.m. and the Commission reconvened at 12:58 p.m. During the lunch recess, Chairman Hammond and Commissioner Goesling gave a brief summary of their attendance to the Idaho State School Board meeting in October, including staffing and oversight and transfer of charter schools back to their district with provisions of services. Commissioners Miller and Van Wart shared some of the information they gained while recently attending the Charter Authorizers Conference.

5. FALCON RIDGE PUBLIC CHARTER SCHOOL (FRPCS)

Petitioners for Falcon Ridge Public Charter School introduced themselves and Heather Dyer explained all their information was submitted electronically and the executive summary addressed the issues in the sufficiency review.

Counsel presented their examination of the review and recommended the need to clarify their plan regarding adding grades after K-8; that the signatures on their petition need to be verified as qualified electors, and include language regarding transfer rights of employees. Counsel also suggested that insurance quotes need to show all coverage.

The Commission asked petitioners why the Commission is chartering this school and not the Kuna School District. Legal counsel offered the research under federal law finds the liability issue to be the same for the Charter Commission as for the school district. It was identified as a new concept or Idaho anomaly as it was not found nationwide and if

students were not attending Falcon Ridge, they would attend Kuna School District, so the liability would still be in the district that is still willing to provide services. If a solution is found, the petitioners could petition the Kuna School District to authorize even after the Charter Commission has authorized them.

M/S (Powell/Sousa): To approve Falcon Ridge Public Charter School as a charter under the Public Charter Commission to begin operation in the 2005-2006 school year with the addition of agreed changes from counsel and including the Third Party Language:

By granting of a charter, the Public Charter School Commission does not intend that any persons or entities other than the Falcon Ridge Public Charter School or its successors and assigns, shall have any rights or remedies arising from this grant, and no third party rights are intended. Specifically, no party contracting with Falcon Ridge Public Charter School is intended to have any rights arising from the grant of a charter, and any benefit accruing to any such third party is merely coincidental. *The motion carried unanimously.*

M/S (Goesling/Powell): To forward to the governor's office, legislature and the State Board of Education a request for immediate action with respect to the liability issues raised by the passage of Falcon Ridge Public Charter School by the Commission. *The motion carried unanimously.*

The chairman will work with the state board, staff, and Commission member to address the specific issue of liability and broader issues as well.

6. IDAHO LEADERSHIP ACADEMY – PINGREE (ILA)

Petitioners from ILA-Pingree were introduced and Charter Commission legal counsel presented a definition and analysis of virtual versus brick and mortar schools.

Legal counsel explained the analysis of the definition of a public virtual school added to the charter school act in legislation of 2004. The definition states a public virtual school is one that primarily provides education by distance learning type methods. Deputy Attorney General Nelson summarized the analysis on virtual vs. brick and mortar schools and suggested it does not appear the legislature contemplated this type of combination. The Commission asked for a clarification of why the definition is important. Legal counsel explained the only way an existing petition can come to this Commission is that they fit the definition of a virtual public school.

Troy Henke, President of ILA-Pingree gave a history of how long they have been a school and the desire to work with the legislature to fit as a virtual school, adding their school is unique in providing an opportunity to students via internet.

Tim Hill from the State Department of Education informed the Commission of the

definitions of virtual, home based and building based schools. He further detailed enhanced funding for the prior and current fiscal year median devisors, adding those go away in FY06, and adding the transportation component becomes attributable to home based, not virtual based at that time.

ILA read a letter to support why they were before the Commission. The letter from the Snake River School District stated they would no longer be authorized through the district beyond the 2003-04 school year, if they continued as a distance learning entity. Steve Adams, ILA advisor, discussed LEA status, the interpreted language of the law, and clarified another issue as virtual distance learning program as a home based program and offered an explanation on attendance and funding.

Discussion continued between the charter and the Commission members to clarify an understanding of the distinction between one school with two components versus two or three schools. ILA – Pingree is one school with two separate statuses and different funding through the state.

The Commission asked legal counsel if the district could refer the charter to the Commission. Legal said not under these circumstances, following jurisdiction. They could bring a virtual school to the Commission under a new petition.

Discussion was held regarding the links between the programs and education in the virtual realm and the brick and mortar. The explanation was that the programs were close, but not identical. The charter school receives one check from the state on both funding formulas. Tim Hill clarified the reporting of students is different on the traditional formula adding together the ADA for virtual and traditional students, using the same devisors. Commission Miller asked if the schools are paid on the same devisor as brick and mortar formula. Tim Hill explained the funding uses the same devisor. Further explanations were given regarding the differences between IDVA using different devisors due to their size and explaining devisors that did not apply to this school that ILA uses at this time, which were set by the Legislature.

M/S (Goesling/_____): To table this petition and to ask legal staff to seek the intent of the legislation. *Motion failed for a lack of a second.*

The petitioners were asked if they would consider extending the time frame and stated they were in time restrictions with the district with which they were authorized. Legal Counsel stated that statutory time constraints have expired.

Commissioner Miller questioned whether the virtual could be pulled out of the chartered school. Counsel offered the legal clarification of the two petitions not being able to be combined under the law as they are in two different school districts. It was suggested that if one charter school is approved as a brick and mortar, then it could expand to a second site.

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Steve Adams, ILA advisor, explained the differences and similarities between the three schools. Petitioners asked if the charter could be their own LEA, and counsel explained the State Board has jurisdiction over LEA status. Mr. Adams offered that the new petition may be dated as the date submitted a few weeks ago.

Commission asked if the charter would be willing to work with the Commission to grant an extension to the timeline and Mr. Henke agreed they would be.

Julie Van Orden, trustee from the Snake River School District offered their opinion of the special education issue on the distance learning and splitting the petition into two for on site programs and virtual and that ILA was open to working with the districts as well as the Charter Commission.

Chairman Hammond clarified that a virtual school is the only school that can come directly to the Commission. A brick and mortar school needs to be referred by the local school district or from the Board on appeal.

Steve Adams explained their understanding of the legislation concerning virtual schools and asked about returning with a new petition as a total virtual school.

M/S (Goesling/Miller): To allow an extension for 60 days for the petition filed by Idaho Leadership Academy – Pingree. *The motion was withdrawn*

Discussion was held on whether the Commission could deny this petition and the process. Legal counsel was asked the limits on denial and submittal of a new petition and determination of jurisdiction on this petition.

ILA requested an extension to the next meeting to amend the petition before the Commission. The Commission agreed to extend the time line for approving this charter. Clarification was made that this was just for Pingree.

M/S (Goesling/Miller): To allow Idaho Leadership Academy – Pingree to resubmit at next meeting as a charter under the Public Charter Commission. *The motion carried unanimously.*

Commission asked how soon ILA could have a new petition submitted. It was clarified that it will be an amended petition as it has already been submitted to the Commission. Legal counsel advised ILA to get it through the review process as soon as possible.

7. IDAHO LEADERSHIP ACADEMY – IDAHO FALLS (ILA)

The Commission and counsel presented that this petition was before the Commission legal and properly.

George Bolen, Supervisor of Education services at Idaho Falls School District, spoke on

the timelines of receipt of materials and providing input. He further discussed the petition as it was before the school board and that it lacked specificity and clarity. He also discussed the concern between multi-district charters in Pingree and Idaho Falls and the “needs improvement” status of AYP. He spoke on other issues such as employee transfer rights, contract services and transportation. Mr. Bolen stated there were too many unknowns for the school district to move forward with this petition, however they would work with them on food services, but still had more questions regarding locations and boards of the schools.

Chairman Hammond inquired about the timeline on submittal of petitions. Legal counsel explained the petitioners withdrew the virtual component and submitted new financials. The amended petition before the Commission and the State Department of Education has the sufficiency review completed and was jurisdictionally correct because it was referred through the State Board.

M/S (Donnelly/Souza): To table Idaho Leadership Academy – Idaho Falls due to incomplete petition issues and to resubmit at next meeting as a charter under the Public Charter Commission. *The motion was withdrawn*

Legal counsel clarified again that this is not a new petition.

Steve Adams gave an explanation of the document before the Commission and why Pingree and Idaho Falls had similar information submitted.

The Commission had renewed questions regarding AYP. There was discussion regarding testing of students and accreditation ratings with the state and it was clarified that it had been a hardware function and the school improvement plan includes a remedial math instruction for every student and they have seen progress. Further discussion took place between petitioners, Carolyn Mauer and the Commission in regards to accreditation and rating. The charter is accredited through the state of Idaho and on approved status with warnings, and seeking accreditation through American Academy for Liberal Education (AALE) and not Northwest Accreditation and it was clarified that the accreditation in the petition refers to Pingree and not Idaho Falls.

Several parents gave a history of their experience with the Pingree school and their desire to see the same school in Idaho Falls.

M/S (Miller/Donnelly): To allow Idaho Leadership Academy – Idaho Falls to resubmit at next meeting as a charter under the Public Charter Commission. *The motion carried unanimously. Sousa abstained.*

M/S (Goesling/Paul): To adjourn the meeting at 3:38 pm. *The motion carried unanimously.*